

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MICHAEL BRACKETT, GARY FOSTER,
THOMAS LAKE III, ROBERT LASCHOB,)
GREGORY SIMONDS, JOHN VOGT,)

Plaintiffs.)

v.)

ST. LOUIS BOARD OF POLICE)
COMMISSIONERS,)

AND)

COL. RICHARD GRAY, in his official capacity)
as a member of the St. Louis Board of Police)
Commissioners,)

AND)

COL. THOMAS IRWIN, in his official capacity)
as a member of the St. Louis Board of Police)
Commissioners,)

AND)

COL. BETTY BATTLE-TURNER, in her official)
capacity as a member of the St. Louis Board of)
Police Commissioners,)

AND)

MAYOR FRANCIS SLAY, in his official)
capacity as ex-officio member of the St. Louis)

Cause No.:

JURY TRIAL DEMANDED

Board of Police Commissioners,)
)
)
)
Defendants.)

COMPLAINT

COME NOW Plaintiffs, by and through counsel, and for their Complaint against St. Louis Board of Police Commissioners (“Board”), Col. Richard Gray (“Gray”), Col. Thomas Irwin (“Irwin”), Col. Betty Battle-Turner (“Battle-Turner”), and Mayor Francis Slay (“Mayor”) (hereinafter collectively referred to as Defendants), state as follows.

PARTIES AND JURISDICTION

1. Plaintiffs are and at all times material have been employed by Defendants in the position of Sergeant with the Metropolitan Police Department of the City of St. Louis (“Department”). Plaintiffs bring this action for Declaratory Judgment, back pay, and other relief pursuant to 29 U.S.C. §207, 29 U.S.C. §215, 29 U.S.C. §216 (b), and 28 U.S.C. §1331, to remedy the Defendants’ willful and unlawful violations of federal law.

2. Plaintiffs are identified in the caption of this Complaint and have given their written consent to be party Plaintiffs in this action, pursuant to 29 U.S.C. §216(b). These written consent forms set forth each Plaintiff’s name and address. (See Attached Exhibits 1-6, which are hereby fully incorporated by reference). Plaintiffs bring this action as a collective action on behalf of themselves and all other similarly situated.

3. The Board was created pursuant to Missouri statute, and is made up of members appointed by the Governor of the State of Missouri. The Board is responsible for ensuring the Department is run effectively and creates the policies and procedures for the Department.

4. Each of the Plaintiffs in this action, while employed by Defendants in the position of Sergeant, have been an “employee” within the meaning of the Fair Labor Standards Act

(“FLSA”) 29 U.S.C. §203(e)(1).

5. Defendants are, and at all times relevant hereto were, a public agency within the meaning of the 29 U.S.C. §203(x).

6. Defendants Col. Richard Gray, Col. Thomas Irwin, and Col. Betty Battle-Turner are the current appointed members of the Board and at all times herein have acted in their official capacity as members of the Board.

7. Mayor Francis Slay is an ex-officio member of the Board, and at all times relevant hereto has acted in his official capacity as a member of the Board.

8. This Court has jurisdiction over this action pursuant to 28 U.S. C. §1331 and 29 U.S.C. §216(b).

FACTS

9. Plaintiffs do hereby incorporate by reference each and every allegation contained in Paragraphs 1-8, as if fully set forth herein.

10. At all times material herein, and since May 2009, as well as before, the Plaintiffs have worked for Defendants within the Department in the position of Sergeant.

11. Since May of 2009, while working in the position of Sergeant on behalf of Defendants, Plaintiff's job duties are and were to perform work protecting and serving the public, including, but not limited to, responding to 911 emergency calls, making arrests, writing citations, conducting investigations, apprehending suspects, serving warrants, resolving domestic disputes, conducting patrols, backing up other police officers making arrests, guarding and transporting prisoners, and testifying before grand juries, at court hearings, and at trial.

12. RSMo Section 84.110 provides that eight (8) hours constitutes the time of regular service for members of the Saint Louis Metropolitan Police Department.

13. While working as Sergeants for Defendants, Plaintiffs have worked in excess of eight (8) hours a day, including many occasions in which Plaintiffs have worked in excess of 43 hours a week, 86 hours in a biweekly pay period, and 171 hours in a 28 day period.

14. During the times that Plaintiffs have worked in excess of eight (8) hours a day, as well as those occasions in which they have worked in excess of 43 hours per week or 171 hours in a 28 day period, Defendants have failed to provide Plaintiffs with the rights and protections provided under the FLSA, including overtime pay at the rate of one and one-half times their regular rates of pay for all hours Plaintiffs have worked in excess of the hourly standards set forth under 29 U.S.C. §207 (a) and (k).

15. Upon information and belief, Defendants have failed and refused to keep any records of overtime worked by Sergeants since at least May of 2009 and before.

COUNT I-VIOLATIONS OF SECTION 207 (A) AND (K)
OF THE FAIR LABOR STANDARDS ACT

16. Plaintiffs does hereby incorporate by reference Paragraphs 1-15, as if fully set forth herein.

17. Defendants have routinely required Plaintiffs to work in excess of the hourly standards for overtime compensation under 29 U.S.C. §207 (a) and (k), without providing Plaintiffs with the rights and protections provided under the FLSA, including Defendants' failure to pay overtime at the rate of one and one half times their regular rates of pay for all hours Plaintiffs have worked overtime.

18. By failing to pay the Plaintiffs and other employees similarly situated the overtime pay required under the law, Defendants have violated and are continuing to violate in a willful and intentional matter, the provisions of the FLSA. As a result, Plaintiffs have been unlawfully deprived of overtime compensation and other relief for the maximum period allowed under the

law.

19. As a result of Defendants' willful and purposeful violation of the FLSA, there have become due and owing to the Plaintiffs an amount that has not yet been precisely determined. The employment and work records for Plaintiffs are in the possession, custody, and control of Defendants, and Plaintiffs cannot at this time the exact amount owing to them.

20. Defendants are subject to a duty, imposed by 29 U.S.C. §211 (c), as well as various other statutory and regulatory provisions, to maintain and preserve payroll and other employment records with respect to the Plaintiffs and other employees similarly situated from which the amount of Defendants' liability can be ascertained.

21. Pursuant to 29 U.S.C. §216(b), Plaintiffs are entitled to receive liquidated damages in an amount equal to their back pay damages for the Defendants' failure to pay overtime compensation.

22. Plaintiffs' are entitled to recover attorneys' fees and costs under 29 U.S.C. §216(b).

WHEREFORE, Plaintiffs, on their own behalf and on behalf of others similarly situated, pray that this Court:

- a) Enter judgment declaring that Defendants have willfully and wrongfully violated their statutory obligations, and deprived each of the Plaintiffs, and all other similarly situated individuals, their rights;
- b) Order a complete and accurate accounting of all the compensation to which Plaintiffs and all other similarly situated individuals are entitled;
- c) Award Plaintiffs' and all other similarly situated individuals monetary liquidated damages equal to their unpaid compensation;

- d) Award Plaintiffs' and all other similarly situated individuals interest on their unpaid compensation;
- e) Award Plaintiffs and all other similarly situated individuals their reasonable attorneys' fees to be paid by Defendants, and the costs and disbursement s of this action; and
- f) Grant such further relief as the Court deems just and necessary under the facts and circumstances of this case.

Respectfully Submitted,

LAW OFFICES OF RICK BARRY, P.C.

By: /s/ Rick Barry
RICK BARRY, USDC #2572
Attorney for Plaintiffs
1750 South Brentwood Blvd., Suite 295
St. Louis, Missouri 63144
Phone: (314) 918-8900
Fax: (314) 918-8901
rickbarry@rickbarrypc.com

CONSENT

I, GARY FOSTER, do hereby indicate my intent and consent to participate as a named Plaintiff in this collective action. My work address is 1200 Clark Avenue, St. Louis, MO 63103.

Dated this 16th day of MAY, 2012.

Gary W. Foster
GARY FOSTER

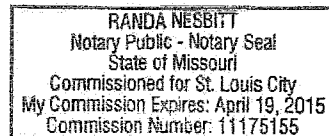
In witness whereof, I have hereunto subscribed my name and affixed my official seal this

16th day of May, 2012
Randa Nesbitt
(Signed)

(Sealed)

My Commission Expires:

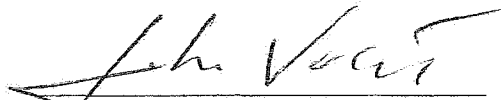
April 19th, 2015



CONSENT


I, JOHN VOGT, do hereby indicate my intent and consent to participate as a named Plaintiff in this collective action. My work address is 1200 Clark Avenue, St. Louis, MO 63103.

Dated this 16 day of MAY, 2012.


JOHN VOGT

In witness whereof, I have hereunto subscribed my name and affixed my official seal this

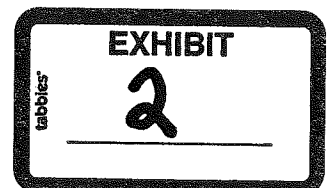
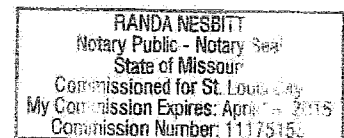
16th day of May, 2012


(Signed)

(Sealed)


My Commission Expires:

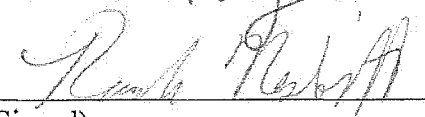
April 19th, 2015



CONSENT

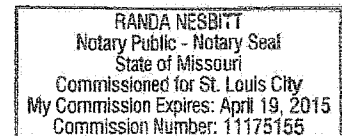
I, THOMAS LAKE, do hereby indicate my intent and consent to participate as a named Plaintiff in this collective action. My work address is 1200 Clark Avenue, St. Louis, MO 63103.

Dated this 16th day of May, 2012.

THOMAS LAKE III

In witness whereof, I have hereunto subscribed my name and affixed my official seal this
16th day of May, 2012

(Signed) (Sealed)

My Commission Expires:

April 19th, 2015



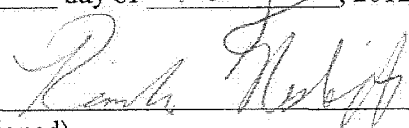
CONSENT

I, ROBERT LASCHOBBER, do hereby indicate my intent and consent to participate as a named Plaintiff in this collective action. My work address is 1200 Clark Avenue, St. Louis, MO 63103.

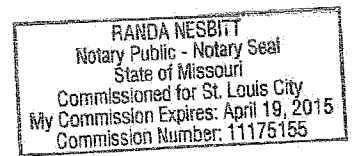
Dated this 14 day of 5, 2012.


ROBERT LASCHOBBER

In witness whereof, I have hereunto subscribed my name and affixed my official seal this

16th day of May, 2012

(Signed)

(Sealed)



My Commission Expires: April 19th, 2015



CONSENT

I, GREGORY SIMONDS, do hereby indicate my intent and consent to participate as a named Plaintiff in this collective action. My work address is 1200 Clark Avenue, St. Louis, MO 63103.

Dated this 16 day of May, 2012.

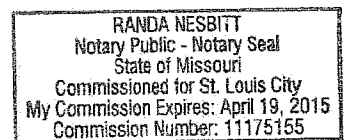
Gregory Simonds
GREGORY SIMONDS

In witness whereof, I have hereunto subscribed my name and affixed my official seal this

16th day of May, 2012

Randa Nesbitt
(Signed)

(Sealed)



My Commission Expires:

April 19th, 2015



CONSENT

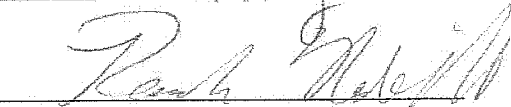
I, MICHAEL BRACKETT, do hereby indicate my intent and consent to participate as a named Plaintiff in this collective action. My work address is 1200 Clark Avenue, St. Louis, MO 63103.

Dated this 16th day of May, 2012.


MICHAEL BRACKETT

In witness whereof, I have hereunto subscribed my name and affixed my official seal this

16th day of May, 2012


(Signed)

(Sealed)

My Commission Expires:

Apr. 19th, 2015

